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EXAMINER
YIGDALL, MICHAEL J

ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/852,070	HILTGEN ET AL.
	Examiner	Art Unit
	Michael J. Yigdall	2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _18 January 2006_.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-32_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-32_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This Office action is responsive to Applicant's submission filed on January 18, 2006.

Claims 1-32 are pending.

Response to Arguments

2.   Applicant's arguments have been fully considered but they are not persuasive.

(A) Applicant contends that Curtis does not determine if the software program should be installed, but rather determines what other dependent objects/programs should be installed when installing the software program, and thus concludes that Curtis teaches away from the claimed invention (remarks, page 12, last paragraph).

However, the examiner does not agree. Curtis expressly discloses, "If any dependency objects 400 in a file set have the failed field 430 set 'on,' then the file set may not be installed because the dependent component is not installed" (column 10, lines 32-35). In other words, Curtis determines if the file set should be installed, based in part on whether all of the dependent components are installed. Therefore, Curtis does not teach away from the claimed invention.

(B) Applicant contends that Curtis does not teach or suggest executing and processing information on hardware components to determine whether to install the software program (remarks, page 13, first paragraph).

However, the plain language of the claims does not exclude Curtis. Claim 1, for example, recites, "the script program executes and processes the computer object including information on installed software and hardware components to determine whether to install the patch" (lines 10-12). In other words, the script program executes and processes the computer

object to determine whether to install the patch, and the computer object includes information on

installed software and hardware components. Curtis discloses executing and processing a

computer object to determine whether to install the software program (see, for example, column

11, lines 20-27 and 41-52). Here, the "computer object" is the registry. Curtis expressly

discloses that the registry includes information on installed software and hardware components

(see, for example, column 2, lines 51-55). Furthermore, claim 1 recites generating a script

program with a conditional statement that "evaluates as true based on a presence of a software or

hardware component indicated in a computer object" (lines 5-6, emphasis added). Indeed, Curtis

also discloses a conditional statement that is evaluated based on the presence of a software

component indicated in the registry (see, for example, column 12, lines 13-30). Therefore, the

plain language of the claims does not exclude Curtis.

Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d

1057 (Fed. Cir. 1993).

(C) Applicant contends that Curtis does not teach or suggest a patch attribute statement,

wherein an attribute defined for the attribute statement is associated with the installation of the

patch to the computer (remarks, page 13, first paragraph).

However, Curtis discloses "attribute statements" in terms of dependency objects (see, for

example, FIG. 3 and column 9, lines 21-25). An attribute named "passed" is defined for each

dependency object (see, for example, FIG. 3 and column 10, lines 20-30). Curtis expressly

discloses, "Only after the Passed field 428 is set 'on' in all the dependency objects in the file set

340 being installed may the file set be installed" (column 10, lines 30-32), which is to say that that the "passed" attribute is associated with the installation of the file set to the computer.

(D) Similarly, Applicant contends that Donohue does not teach or suggest executing and processing information on hardware components to determine whether to install a patch, and that Donohue does not teach or suggest patch attribute statements, wherein an attribute defined for the attribute statement is associated with the installation of the patch to the computer (remarks, page 13, third and fourth paragraphs). Similarly, Applicant contends that Dodson does not teach these elements (remarks, page 14, second full paragraph).

However, as noted in (B) and (C) above, Curtis teaches these elements to the extent they are recited in the claims. Moreover, Dodson expressly discloses executing and processing information on hardware components (see, for example, column 3, lines 50-58).

(E) Applicant contends that Dodson does not teach if installation of one or more specific drivers would prevent a driver from being installed (remarks, page 14, third full paragraph).

However, Dodson discloses querying the computer for a list of installed drivers and versions (see, for example, column 3, lines 58-62), and ending or preventing the installation of a driver if the evaluation of installed drivers is not suitable (see, for example, step 410 in FIG. 4). In fact, a purpose of Dodson's invention is to determine whether drivers in different combinations can properly interoperate or coexist on the computer (see, for example, column 1, lines 26-58).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-3, 5, 7-11, 13, 15-19, 21, 23-27, 29, 31 and 32 are rejected under 35 U.S.C.

103(a) as being unpatentable over U.S. Patent No. 6,442,754 to Curtis (art of record, "Curtis") in

view of U.S. Patent No. 6,199,204 to Donohue (art of record, "Donohue").

With respect to claim 1 (previously presented), Curtis discloses a method for a computer

to determine whether a patch should be installed on the computer (see, for example, the abstract,

and column 10, lines 32-35), said method performed by the computer comprising:

(a) generating a script program including at least one patch attribute statement (see, for

example, script 101 in FIG. 2 and column 5, lines 56-58, which shows a script program, and

column 6, lines 29-38, which shows that the script includes "dependency objects" or patch

attribute statements), wherein each patch attribute statement is called with at least one

conditional statement that returns a list of one or more patches if the at least one conditional

statement evaluates as true based on a presence of a software or hardware component indicated

in a computer object for the computer on which the patch will be applied (see, for example,

column 10, lines 56-60, which shows that each dependency object or patch attribute statement is

called with a "check_dependency" function; column 12, lines 13-20, which shows that the

function includes at least one conditional statement that evaluates to "passed" or true if a

component is installed; column 12, lines 27-32, which shows that the conditional statement

returns a list of one or more components; and column 11, 41-52, which shows that the

components are indicated in a computer object such as a registry), and wherein an attribute

defined for the attribute statement is associated with the installation of the patch to the computer

if the computer includes the returned list of patches (see, for example, column 10, lines 30-32,

which shows a "passed" attribute for the installation of a file set or patch if the computer

includes the returned list of components); and

(b) associating the script program with the patch (see, for example, column 6, lines 29-38,

which shows that the script program is associated with the file set or patch), wherein the script

program executes and processes the computer object including information on installed software

and hardware components to determine whether to install the patch on the computer based on

attributes of the installation determined by the script program (see, for example, column 11, lines

20-27 and 41-52, which shows that the script program executes and processes the computer

object to determine whether to install the file set or patch).

Although Curtis teaches a computer determining whether to install a file set, Curtis is

silent as to the file set comprising a patch. However, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to apply the teachings of Curtis to the

installation of a patch, such as in Donohue (see, for example, the abstract). Analogous to Curtis,

Donohue teaches a computer determining whether to install an update based on certain criteria

(see, for example, column 8, line 64 to column 9, line 9), such as if the computer includes a list

of resources (see, for example, column 9, lines 51-67). One of ordinary skill in the art would

have been motivated to apply the teachings of Curtis to the installation of a patch, such as in

Donohue, so as to install updates to software (see, for example, Donohue, column 5, lines 43-48)

on different operating system platforms (see, for example, Curtis, column 4, lines 39-44).

With respect to claim 2 (original), the rejection of claim 1 is incorporated, and Curtis

further discloses the limitation wherein the patch attribute statement is capable of comprising a

patch requires statement, wherein the patch requires attribute indicates that the patches in the

returned patch list must be installed in the computer in order for the patch to be installed in the

computer (see, for example, column 10, lines 32-35, which shows that the dependency object or

patch attribute statement indicates that the components in the returned list must be installed in

order to install the file set or patch).

With respect to claim 3 (original), the rejection of claim 1 is incorporated, and Curtis

further discloses the limitation wherein the conditional and patch attribute statements utilize a

syntax that is similar to a syntax of commands capable of being interpreted by a command

processor interface of the computer operating system (see, for example, column 10, lines 60-66,

which shows that the statements use a syntax that includes native operating system commands),

and wherein the syntax of the conditional and patch attribute statements prevent the conditional

and patch attribute statements from executing on the computer outside of a patch update

interpreter that is capable of interpreting the syntax of the conditional and patch attribute

statements (see, for example, column 5, lines 56-58, which shows that the script program is

implemented in the Java language and thus the statements are interpreted).

With respect to claim 5 (original), the rejection of claim 1 is incorporated, and Curtis

further discloses the limitation wherein the patch attribute statements are further capable of

including a patch constraint attribute called with at least one conditional statement, wherein the

patch constraint attribute indicates that the patch can be installed in the computer if each

conditional statement evaluates as true (see, for example, column 10, lines 30-35, which shows

that the dependency object or patch attribute statement includes a constraint that the file set or

patch can be installed if each conditional statement evaluates to passed or true).

With respect to claim 7 (original), the rejection of claim 1 is incorporated, and Curtis

further discloses the limitation wherein the computer object is further capable of indicating a

realization that defines a state of the computer (see, for example, column 13, lines 7-27, which

shows that the registry or computer object indicates realization states of the computer), wherein

the conditional statements are further capable of determining whether realizations are included in

the computer object indicating the presence of the defined realization states at the computer (see,

for example, column 12, lines 8-12, which shows determining whether realizations are included

in the registry or computer object), wherein the attribute for the patch attribute statement is

associated with the installation of the patch to the computer if the at least one conditional

statement is evaluated as true (see, for example, column 10, lines 30-32, which shows the

installation of the file set or patch if the conditional statement evaluates to passed or true).

With respect to claim 8 (original), the rejection of claim 1 is incorporated, and Curtis

further discloses the limitation wherein the patch attribute statement includes multiple

conditional statements and a different list of patches for each conditional statement (see, for

example, column 9, lines 34-46, which shows that there are multiple dependency objects and thus multiple conditional statements with different lists of components for each type), wherein the attribute defined for the attribute statement is associated with the installation of the patch to the system if the system includes the returned list of patches for the conditional statement that evaluated as true (see, for example, column 10, lines 30-32, which shows the installation of a file set or patch if the computer includes the returned list of components).

With respect to claim 9 (currently amended), the claim recites a system that corresponds to the method of claim 1 (see the rejection of claim 1 above).

With respect to claims 10, 11, 13, 15 and 16 (original), the limitations recited in the claims are analogous to those of claims 2, 3, 5, 7 and 8, respectively (see the rejection of claims 2, 5, 7 and 8 above).

With respect to claim 17 (previously presented), the claim recites an article of manufacture that corresponds to the method of claim 1 (see the rejection of claim 1 above).

With respect to claims 18, 19, 21, 23 and 24 (original), the limitations recited in the claims are analogous to those of claims 2, 3, 5, 7 and 8, respectively (see the rejection of claims 2, 5, 7 and 8 above).

With respect to claim 25 (previously presented), the claim recites a computer readable medium that corresponds to the method of claim 1 (see the rejection of claim 1 above).

With respect to claims 26, 27, 29, 31 and 32 (original), the limitations recited in the

claims are analogous to those of claims 2, 3, 5, 7 and 8, respectively (see the rejection of claims

2, 5, 7 and 8 above).

5.   Claims 4, 6, 12, 14, 20, 22, 28 and 30 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Curtis in view of Donohue as applied to claims 1, 9, 17 and 25 above,

respectively, and further in view of U.S. Patent No. 6,513,159 to Dodson (art of record,

"Dodson").

With respect to claim 4 (original), the rejection of claim 1 is incorporated, and Curtis and

Donohue do not expressly disclose the limitation wherein the patch attribute statements included

in the script program are capable of including patch attribute statements that are members of the

set of patch attribute statements comprising:

(a) a patch incompatible statement wherein the patch incompatible attribute indicates that

if the patches in the returned patch list are installed in the computer, then the patch cannot be

installed in the computer.

However, Dodson teaches a list of packages known to interoperate properly that is used

to identify incompatible combinations of drivers and devices when installing or updating another

package (see, for example, column 3, lines 21-29). Dodson teaches querying the computer for a

list of installed drivers and versions (see, for example, column 3, lines 58-62), and ending or

preventing the installation of the other package if the evaluation of installed drivers is not

suitable (see, for example, step 410 in FIG. 4).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to supplement Curtis and Donohue with the teachings of Dodson and include a patch

incompatible statement in the script program, so as to indicate whether the patch is incompatible

with the combination of other patches installed in the computer (see, for example, Dodson,

column 1, lines 26-58).

Donohue further discloses the limitation wherein the patch attribute statements included

in the script program are capable of including patch attribute statements that are members of the

set of patch attribute statements comprising:

(b) a patch prefers statement, wherein the patch prefers attribute indicates that the patches

in the returned patch list are recommended to be installed in the computer (see, for example,

column 11, lines 58-63, which shows that the criteria may indicate that the resources in the

returned resource list are recommended rather than forced to install).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to supplement Curtis with a patch prefers statement so as to increase the flexibility of

the dependency objects, such as taught in Donohue (see, for example, column 9, lines 41-43).

With respect to claim 6 (original), the rejection of claim 1 is incorporated, and Curtis

further discloses the limitation wherein the conditional statements provided with the attribute

statements are members of the set of conditional statements comprising:

(a) a first conditional statement that determines whether the computer object indicates

that a specified vendor operating system is installed on the computer (see, for example, column

11, lines 33-37, which shows determining whether a specified operating system is installed);

(b) a second conditional statement that determines whether the computer object indicates that a specified version of the operating system is installed on the computer (see, for example, column 11, lines 33-37, which shows determining whether a specified operating system is installed).

(d) a fourth conditional statement that determines whether the computer object indicates that a specified software package having a specified version number is installed on the computer (see, for example, column 11, lines 57-63, which shows determining whether a specified version of a specified program or software package is installed); and

(f) a sixth conditional statement that determines whether the computer object indicates that a specified patch having a specified version number is installed on the computer (see, for example, column 11, lines 57-63, which shows determining whether a specified version of a specified program or patch is installed).

Donohue further discloses the limitation wherein the conditional statements provided with the attribute statements are members of the set of conditional statements comprising:

(e) a fifth conditional statement that determines whether the computer object indicates that a specified software package having a specified version number or higher is installed on the computer (see, for example, column 9, lines 51-67, which shows determining whether a specified version or higher of a specified resource or software package is installed); and

(g) a seventh conditional statement that determines whether the computer object indicates that a specified patch package having a specified version number or higher is installed on the computer (see, for example, column 9, lines 51-67, which shows determining whether a specified version or higher of a specified resource or patch is installed).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement Curtis with conditional statements to check for specified versions or higher of software packages and patches so as to increase the flexibility of the dependency objects, such as taught in Donohue (see, for example, column 9, lines 41-43).

Curtis and Donohue do not expressly disclose the limitation wherein the conditional statements provided with the attribute statements are members of the set of conditional statements comprising:

(c) a third conditional statement that determines whether the computer object indicates that the computer includes a specified hardware platform; and

(h) an eighth conditional statement that determines whether the computer object indicates that the computer includes a specified architecture.

However, Dodson teaches checking the hardware configuration and architecture of the computer to determine which drivers to install or update (see, for example, column 4, line 59 to column 5, line 43).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to supplement Curtis and Donohue with the teachings of Dodson and include conditional statements to check the hardware platform and architecture of the computer, so as to indicate whether the patch is compatible with the computer.

With respect to claims 12 and 14 (original), the limitations recited in the claims are analogous to those of claims 4 and 6, respectively (see the rejection of claims 4 and 6 above).

With respect to claims 20 and 22 (original), the limitations recited in the claims are analogous to those of claims 4 and 6, respectively (see the rejection of claims 4 and 6 above).

With respect to claims 28 and 30 (original), the limitations recited in the claims are analogous to those of claims 4 and 6, respectively (see the rejection of claims 4 and 6 above).

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Yigdall whose telephone number is (571) 272-3707. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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